**THE HON'BLE SRI JUSTICE V.ESWARAIAH**

**WRIT PETITION No.1194 of 2007**

Between:

G.Narasimhulu.

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PETITIONER

and

The Commissioner of Prohibition and Excise,
Nampally and another.

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RESPONDENTS

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**ORDER:**

The petitioner is the owner of Mini Lorry bearing

No.AP-20-W-2607, which was said to have been involved in an offence under Section 34(a) of A.P.Excise Act, 1968, in Cr.No.257/2005-2006 of Prohibition and Excise Station, Jaggaiahpet at Krishna District. The Station House Officer, Jaggaiahpet Prohibition and Excise Station, filed a petition for confiscation of the said lorry as it was being found transporting 450 litres of toddy at Allurupadu village. Pursuant to the said petition, the Deputy Commissioner of Prohibition and Excise, Vijayawada-2nd respondent, issued a show-cause notice, dated 22-02-2006 giving an opportunity to the petitioner to defend his case.

It appears that pursuant to the show cause notice, the petitioner filed an application for an interim release of the said lorry. Later, the petitioner filed W.P.No.17847 of 2006 and obtained interim directions for release of the said lorry. It appears that the custody of the said lorry was not taken. Meanwhile, the 2nd respondent passed impugned order, dated 04-12-2006.

Admittedly, an appeal lies against the said order under Section 13(C) of A.P.Prohibition Act, 1995, to the Commissioner of Prohibition and Excise. As there is an effective alternative remedy, I am not inclined to admit the writ petition.

However, the learned counsel appearing for the petitioner submits that even before the appeal time is over, the respondents are taking steps to sell the said lorry.

I am not inclined to express any opinion in this regard. However, having regard to the facts and circumstances of the

case, I deem it appropriate to direct the respondents that the said vehicle shall not be put to auction for a period of ten days from today.

Accordingly, the writ petition is dismissed with a liberty to file an appeal before the Commissioner of Prohibition and Excise, within a week from today and the vehicle bearing No.AP-20-W-2607 shall not be put to auction for a period of ten (10) days from today. No order as to costs.

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23-01-2007

Prv